



[3410-11- P]

DEPARTMENT OF AGRICULTURE

Forest Service

Grand Mesa, Uncompahgre and Gunnison National Forests; Colorado; Federal Coal Lease Modifications COC-1362 & COC-67232.

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Grand Mesa, Uncompahgre and Gunnison National Forests (GMUG) must decide whether or not to consent to Bureau of Land Management (BLM) modifying the Federal Coal Leases COC-1362 and COC-67232 by adding 800 and 922 acres, respectively, to them. If the GMUG does consent to lease, it will prescribe conditions (as stipulations) for the protection of non-mineral resources

DATES: Public comments for this project were received between April 21 and May 21, 2010 during the preparation of an Environmental Assessment. Comments received during that period will be also be considered in this analysis. These comments have informed the issue analysis and alternative development. Additionally, the agency will continue to accept public comments throughout the preparation of the Draft Environmental Impact Statement, which is estimated to be released in May, 2012. The final environmental impact statement is expected in July, 2012.

ADDRESSES: Written comments should be addressed to Grand Mesa, Uncompahgre, and Gunnison National Forest, Attn: Forest Supervisor, 2250 HWY50, Delta, CO 81416.

Comments may also be sent via e-mail to comments-rocky-mountain-gmug@fs.fed.us or via facsimile to 970-874-6698.

FOR FURTHER INFORMATION CONTACT: Niccole Mortenson, 406-329-3163 or nmortenson@fs.fed.us.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

Under 43 CFR 3432 (as amended by the Energy Policy Act of 2005), the holder of a federal coal lease may apply to modify a lease by adding up to 960 acres. The federal agencies are responding to applications to modify existing leases. The GMUG and BLM have identified the need to consider issuing two coal lease modifications for federal coal lands immediately adjacent to exiting federal coal leases COC-1362 and COC-67232. The purpose of the lease modifications is to ensure that compliant and super-compliant coal reserves are recovered.

The BLM, charged with administration of the mineral estate on these Federal lands, is required, by law, to consider leasing Federally-owned minerals for economic recovery. The USDA-Forest Service (FS), as the surface management agency, considers consenting to the BLM leasing reserves underlying lands under its jurisdiction, and prescribes stipulations for the protection of non-mineral resources.

Proposed Action

Within the jurisdiction of the Forest Service, the proposed action is to consent to BLM

modifying existing federal coal leases COC-1362 and COC- 67232 by adding 800 and 922 additional acres (respectively) to ensure that compliant and super-compliant coal reserves are recovered and not bypassed, and to identify stipulations for the protection of non-mineral (i.e. surface) resources.

The proposed lease modifications are located in Gunnison County, Colorado in portions of sections 10, 11, 13, 14, 22, 23 of T.14S. R. 90W., 6th PM. The modification areas include National Forest System (NFS) surface lands managed by the GMUG and the coal estate managed by the BLM.

The proposed action deals primarily with underground mining. It is assumed that longwall mining practices would be used. Surface disturbance may include soil subsidence due to removal of the coal. In the event that post-lease surface activities are proposed and authorized, other soil disturbance may occur due to temporary road construction and drilling of methane drainage wells. A Reasonably Foreseeable Mine Plan (RFMP) has been developed to address potential environmental effects. It is detailed to the extent possible and will be included in the analysis.

Possible Alternatives

No Action Alternative-Analysis of the No Action alternative is required by CEQ 40 CFR Part 1502.14(d). Under the no action alternative, the lease modifications would not be approved, and no mining would occur in these specific areas. Impacts from mining coal under these areas would not occur on these lands, and the effects from on-going land uses could continue including coal mining activities such as exploration and monitoring related to mine activities, as well as continued recreation and grazing. The land would continue to be managed according to Forest Plan standards, goals and guidelines.

The Following is Common to All Action Alternatives- Within the jurisdiction of the Forest Service, the proposed action is to consent to BLM modifying existing federal coal leases COC-1362 and COC- 67232 by adding 800 and 922 additional acres (respectively) to ensure that compliant and super-compliant coal reserves are recovered and not bypassed, and to identify stipulations for the protection of non-mineral (i.e. surface) resources.

The proposed action deals primarily with underground mining. It is assumed that longwall mining practices would be used. Minor surface disturbance would occur on Forest Service lands as a result of subsidence. In the event that post-lease surface activities are proposed and authorized, other soil disturbance may occur due to temporary road construction and drilling of methane drainage wells. A Reasonably Foreseeable Mine Plan (RFMP) has been developed to address potential environmental effects and is detailed to the extent necessary without being predecisional.

Stipulations for Action Alternatives

As part of the Proposed Action alternative the GMUG Forest Supervisor must decide if the existing stipulations on the existing parent leases are sufficient for the protection of non-mineral (i.e. surface) resources. If not, additional stipulations that will provide for the protection of non-mineral resources must be prescribed. The list below describes the stipulations on the parent leases, and their applicability to the lease modifications and additional or modified stipulations identified for the protection of visual resources Canada lynx.

In accordance with Forest Service Manual (FSM) 2820, the Standard Notice for Lands under the Jurisdiction of Agriculture is part of the parent leases, and hence would apply to the lease modifications. This Standard Notice includes requirements for Cultural and Paleontological

Resources, and Threatened and Endangered Species is noted in the list below. Further, the Standard Notice contains the following language: “The permittee/lessee must comply with all the rules and regulations of the Secretary of Agriculture set forth at Title 36, Chapter II, of the Code of Federal Regulations governing the use and management of the National Forest System (NFS) when not inconsistent with the rights granted by the Secretary of Interior in the permit. The Secretary of Agriculture's rules and regulations must be complied with for (1) all use and occupancy of the NFS prior to approval of an exploration plan by the Secretary of the Interior, (2) uses of all existing improvements, such as forest development roads, within and outside the area permitted by the Secretary of the Interior, and (3) use and occupancy of the NFS not authorized by the permit/operation approved by the Secretary of the Interior.”

Cultural and Paleontological Resources-The FS is responsible for assuring that the leased lands are examined to determine if cultural resources are present and to specify mitigation measures. Prior to undertaking any surface-disturbing activities on the lands covered by this lease, the lessee or operator, unless notified to the contrary by the FS, shall: Contact the FS to determine if a site specific cultural resource inventory is required. If a survey is required then:

- Engage the services of a cultural resource specialist acceptable to the FS to conduct a cultural resource inventory of the area of proposed surface disturbance. The operator may elect to inventory an area larger than the area of proposed disturbance to cover possible site relocation which may result from environmental or other considerations. An acceptable inventory report is to be submitted to the

FS for review and approval at the time a surface disturbing plan of operation is submitted.

- Implement mitigation measures required by the FS and BLM to preserve or avoid destruction of cultural resource values. Mitigation may include relocation of proposed facilities, testing, salvage, and recordation or other protective measures. All costs of the inventory and mitigation will be borne by the lessee or operator, and all data and materials salvaged will remain under the jurisdiction of the U.S. Government as appropriate.
- The lessee or operator shall immediately bring to the attention of the FS and BLM any cultural or paleontological resources or any other objects of scientific interest discovered as a result of surface operations under this license, and shall leave such discoveries intact until directed to proceed by FS and BLM.

Endangered or Threatened Species-The FS is responsible for assuring that the leased land is examined prior to undertaking any surface-disturbing activities to determine effects upon any plant or animal species listed or proposed for listing as endangered or threatened, or their habitats. The findings of this examination may result in some restrictions to the operator's plans or even disallow use and occupancy that would be in violation of the Endangered Species Act of 1973 by detrimentally affecting endangered or threatened species or their habitats. The lessee/operator may, unless notified by the FS that the examination is not necessary, conduct the examination on the leased lands at his discretion and cost. This examination must be done by or under the supervision of a qualified resource specialist approved by the FS. An acceptable report must be provided

to the FS identifying the anticipated effects of a proposed action on endangered or threatened species or their habitats.

If there is reason to believe that Sensitive, Threatened or Endangered species of plants or animals, or migratory bird species of high Federal interest are present, or become present in the lease area, the Lessee/Operator shall be required to conduct an intensive field inventory of the area to be disturbed and/or impacted. The inventory shall be conducted by a qualified specialist, and a report of findings prepared. A plan will be made that recommends protection for these species or action necessary to mitigate the disturbance. The cost of conducting such inventory, preparing reports and carrying out mitigation measures shall be borne by the Lessee/Operator.

Canada Lynx-To comply with the GMUG Forest Plan 2008 amendment, the following special constraints will apply if surface use on the lease is proposed in lynx habitat:

- Winter access will be limited to designated routes.

Further, should surface-disturbing operations be proposed on the lease in lynx habitat, the following special constraints may apply, depending on site-specific circumstances:

- Remote monitoring of the development sites and facilities may be required to reduce snow compaction.
- A reclamation plan (e.g. road reclamation and vegetation rehabilitation) for sites and facilities that promotes the restoration of lynx habitat may be required.
- Public motorized use on new roads constructed for project-specific purposes will be restricted.

- Access roads will be designed to provide for effective closures and will be reclaimed or decommissioned at project completion if they are no longer needed for other management objectives.
- New permanent roads will not be built on ridge tops or in saddles, if possible, or in areas identified as important for lynx habitat connectivity. New roads will be situated away from forested stringers, if possible.

Raptors-For raptors (except American kestrel) the Lessee will be required to: Conduct surveys for nesting raptors on the lease prior to development of any surface facilities, and no surface activities will be allowed within ½-mile radius of active nest sites between the dates of February 1 and August 15, unless authorized by the Forest Service on a site-specific basis.

Big Game Winter Range-In order to protect big game wintering areas, elk calving areas, and other key wildlife habitat and/or activities, specific surface use may be curtailed during specific times of year. Specific time restrictions for specific species will be evaluated by the Forest Service at the individual project stage, and any additional site specific conditions of use developed at that time.

Water Depletions- In the future, if water to be used for mine related activities is taken from a source that is considered to be tributary waters by the U.S. Fish and Wildlife Service, or which exceeds a depletion amount previously consulted upon, the permitting agency must enter into consultation with the U.S. Fish and Wildlife Service to determine appropriate conservation measures to offset effects to listed fish and critical habitat in the upper Colorado River Basin.

Breeding Birds- If surface disturbance is proposed on the lease, the lessee/operators will

be required to conduct breeding bird surveys prior to surface disturbance.

Geologic Hazards-

COC-1362 Modification-No surface occupancy would be allowed in areas of high geologic hazard or high erosion potential, or on slopes which exceed 60%. Special interdisciplinary team analysis and mitigation plans detailing construction and mitigation techniques would be required on areas where slopes range from 40-60 percent. The interdisciplinary team could include engineers, soil scientist, hydrologist, landscape architect, reclamation specialist and mining engineer.

COC-67232 Modification- No surface occupancy would be allowed in areas of high geologic hazard or high erosion potential. Special interdisciplinary team analysis and mitigation plans detailing construction and mitigation techniques would be required on areas where slopes range from 40-60 percent. The interdisciplinary team could include engineers, soil scientist, hydrologist, landscape architect, reclamation specialist and mining engineer.

Baseline Information-The operator/lessee would be required to perform adequate baseline studies to quantify existing surface and subsurface resources. Existing data can be used for baseline analyses provided that the data is adequate to locate, quantify, and demonstrate interrelationships between geology, topography, hydrogeology, and hydrology. Baseline studies are critical to the success of future observation and assessment of mining related effects on resources.

Monitoring Program-The operator/lessee of the lease tract would be required to establish or amend a monitoring program to be used as a continuing record of change over time of area resources in order to assess mining induced impacts. The monitoring program shall

provide the procedures and methodologies to adequately assess interrelationships between geology, topography, hydrogeology, and hydrology identified in the baseline assessment to mining activities in the lease tract area. The monitoring program shall incorporate baseline data so as to provide a continuing record over time.

Riparian, Wetland or Floodplain-Surface use or disturbances (except for surface subsidence and resource monitoring purposes defined in the approved mining permit) will avoid riparian, wetland or floodplain areas, and a buffer zone surrounding these areas (the definition of riparian areas and appropriate buffer zone will be consistent with that defined in the Forest Service Manual and Rocky Mountain Region's Water Conservation Practices Handbook. Wetland definition will follow Army Corps of Engineers guidelines) unless no practical alternatives exist.

Subsidence (Language from COC-1362 parent lease)- If subsidence adversely affects surface resources in any way (including, but not limited to a documented water loss), the Lessee, at their expense will be responsible to: restore stream channels, stock ponds, protect stream flow with earthwork or temporary culverts, restore affected roads, or provide other measures to repair damage or replace any surface water and/or developed ground water source, stock pond, water conveyance facilities, with water from an alternate source in sufficient quantity and quality to maintain existing riparian habitat, livestock and wildlife use, or other land uses as authorized by 36 CFR 251.

The Lessee/Operator shall be responsible for monitoring, repairing and/or mitigating subsidence effects on existing facilities under Special Use Permit with the Forest Service. Monitoring, repair and/or mitigation, if needed, would be performed at the Lessee's expense. These requirements will be coordinated with the District Ranger and the

Special Use Permittee.

Roadless (Lease Notice Only)- All or parts of the following lands encompassed in this lease are in the West Elk Inventoried Roadless Area and may be subject to restrictions on road-building pursuant to rules and regulations of the Secretary of Agriculture applicable at the time any roads may be proposed on the lease. Legal descriptions are approximate. Locations of any proposed surface use would be verified for relationship to IRA boundaries using site-specific maps if/when surface operations are proposed.

Visuals- Within the lease modification area, the lessee will work with the District Ranger and his/her representative to see that all mine operations are situated on the ground in such a manner that reasonably minimizes impacts to the scenic integrity of that landscape, as prescribed in the Forest Plan.

Coal Mine Methane-The parent leases also contain lease terms from BLM regarding coal mine methane that would be carried forward to the lease modifications. These are addressed as lease addendum as follows:

Sec. 3. Notwithstanding the language in Sec.2 of this lease and subject to the terms and conditions below, lessee is authorized to drill for, extract, remove, develop, produce and capture for use or sale any or all of the coal mine methane from the above described lands that it would otherwise be required to vent or discharge for safety purposes by applicable laws and regulations. For purposes of this lease, “coal mine methane” means any combustible gas located in, over, under, or adjacent to the coal resources subject to this lease, that will or may infiltrate underground mining operations.

Sec. 4. Notwithstanding any other provision of this lease, nothing herein shall, nor

shall it be interpreted to, waive, alter or amend lessee's right to vent, discharge or otherwise dispose of coal mine methane as necessary for mine safety or to mine the coal deposits consistent with permitted underground mining operations and federal and state law and regulation. Lessee shall not be obligated or required to capture for use or sale coal mine methane that would otherwise be vented or discharged if the capture of coal mine methane, independent of activities related to mining coal, is not economically feasible or if the coal mine methane must be vented in order to abate the potential hazard to the health or safety of the coal miners or coal mining activities. In the event of a dispute between lessor and lessee as to the economic or other feasibility of capturing for use or sale the coal mine methane, lessor's remedy as a prevailing party shall be limited to recovery of the compensatory royalties on coal mine methane not captured for use or sale by lessee. Lessee shall have the right to continue all mining activities under the lease, including venting coal mine methane, pending resolution of any dispute regarding the application of the terms of Sections 3 and 4.

Sec. 2 (c) COAL MINE METHANE OPERATIONS AND ROYALTIES-

Notwithstanding the language in Part II, Section 2 (a) of this lease, the royalty shall be 12.5 percent of the value of any coal mine methane that is captured for use or sale from this lease. For purposes of this lease, the term "capture for use or sale" shall not include and the royalty shall not apply to coal mine methane that is vented or discharged and not captured for the economic or safety reasons described in Part I, Section 4 of this lease. Lessee shall have no obligation to pay royalties on any coal mine methane that is used on or for the benefit of mineral extraction at the West Elk

coal mine. When not inconsistent with any express provision of this lease, the lease is subject to all rules and regulations related to Federal gas royalty collection in Title 30 of the Code of Federal Regulations now or hereinafter in effect and lessor's rules and regulations related to applicable reporting and gas measurement now or hereinafter in effect

SEVERABILITY- In the event any provision of this addendum is subject to a legal challenge or is held to be invalid, unenforceable or illegal in any respect, the validity, legality and enforceability of this lease will not in any way be affected or impaired thereby and lessee will retain, in accordance with the terms of this lease, the exclusive right and privilege to drill for, mine, extract, remove or otherwise process and dispose of the coal deposits ,upon, or under the lands described in this lease, including the right to vent or discharge coal mine methane for safety purposed as required by applicable laws and regulation.

Proposed Action (Alternative 2)-Includes all of the information common to all action alternatives above. Because leasing itself does not involve any mineral development or surface disturbance, it is necessary to project the amount of surface use or activity that may result during lease development in order to disclose potential effects and inform decision-making. To facilitate analyzing potential surface impacts, the analysis will assume a reasonably foreseeable mine plan (RFMP) for this leasing decision. It must be noted however, that decisions pertaining to surface use and disturbance, with the exception of subsidence impacts, are not made at the leasing stage. Rather, the decisions related to permit-related surface activities are made when and if site-specific surface uses are proposed, and are evaluated through the State permitting process based on their own

merits. The environmental effects analysis of post-lease surface use and disturbance associated with this alternative will include subsidence and methane drainage well pads. Under the regulatory framework of the 2001 Roadless Area Conservation Rule, future road building is prohibited; however methane drainage is permitted.

Alternative 3- Includes all of the information common to all action alternatives above.

Similar to Alternative 2, the analysis will assume a RFMP for this alternative. However, the environmental effects of this alternative will be analyzed under the regulatory framework of the Proposed Colorado Roadless Rule. As the proposed rule would apply to this leasing decision, temporary road building would be allowed.

Lead and Cooperating Agencies

Cooperating Agencies:

Uncompahgre Field Office, Bureau of Land Management

Colorado State Office, Bureau of Land Management

Western Region, Office of Surface Mining Reclamation and Enforcement

Colorado Division of Reclamation Mining and Safety (pending)

Responsible Official

GMUG Forest Supervisor

Nature of Decision To Be Made

Given the purpose and need, the Authorized Officer will review the proposed action, the other alternatives, and the environmental consequences in order to decide the following:

- Whether or not to consent to the BLM modifying existing Federal Coal Lease COC-1362 by adding 800 acres according to the Federal Coal Leasing Amendments Act of 1976;

- Whether or not to consent to the BLM modifying existing Federal Coal Lease COC-67232 by adding 922 acres according to the Federal Coal Leasing Amendments Act of 1976;
- Prescribe stipulations needed for the protection of non-mineral resources by determining if the existing stipulations on the parent lease are sufficient. If they are not sufficient, prescribe additional stipulations that will provide for the protection of non-mineral resources.

The Forest Service Authorized Officer will determine if the activity is consistent with the GMUG Forest Plan.

The Forest Service decision will be made based on the analysis relative to the No Action and Proposed Action Alternatives.

The BLM is preparing a separate leasing analysis under their regulations. The BLM Colorado State Director is the Authorized Officer for the BLM, and will decide whether or not to modify the existing coal lease under the Mineral Leasing Act, as amended, and the federal regulations under 43 CFR 3400. The Uncompahgre Field Office Manager is responsible for providing the State Director with briefings and recommendations.

Specifically, the BLM will decide whether to:

- Adopt the No-Action Alternative (no leasing);
- Adopt the proposed action (lease the coal as applied for by the applicants);
- Adopt an alternative with features of both of the alternatives; or
- Adopt the action alternative with additional mitigation measures.

BLM cannot issue leases without the consent of the surface managing agency.

OSM is a cooperating agency per an existing Memorandum of Understanding and may prepare a mining plan modification related to the subsequent permitting of these lease modifications.

Preliminary Issues

Preliminary issues have been identified during the preparation of an Environmental Assessment. They include the following:

Indirect and Cumulative Environmental Effects of Leasing-

- Surface disturbance other than from mining (subsidence) may occur as a result of mining.
- Reasonably foreseeable impacts to the surface and other resources may occur as a result of mining.

Mitigation Measures- Forest Service must validate the effectiveness of proposed mitigation measures.

Air Quality-

- Effects of the proposed action may occur on air quality including ambient ozone, PM_{2.5}, PM₁₀, VOCs, Class I areas in compliance with the Clean Air Act.
- Cumulative effects to air quality associated with coal burning may occur as a result of the Proposed Action.

Roadless Character- Roadless character in the West Elk Roadless Area may be affected either indirectly or cumulatively through consenting to lease.

Methane- Alternatives to venting including flaring, capture and use, or destroying ventilation air (VAM) methane must be analyzed in detail.

Coal Reserve- Address the effects of adding coal reserves on coal resource recovery.

Socioeconomics-

- Coal mining activities are vital to the local and regional economies.
- Coal from the North Fork Valley helps fuel clean coal technology and provide the USA with low-cost, reliable energy.

Visual Resources- Removal of vegetation, ground disturbance and structures related to future surface facilities needed to manage methane may negatively impact visuals.

Wildlife- Removal of vegetation related to future surface facilities needed to manage methane may negatively impact Canada lynx.

Subsidence-

- Subsidence may affect wildlife habitat, including effects to riparian habitat
- Subsidence may affect water resources including local water quality and quantity.
- Subsidence may affect cultural resources.
- Subsidence may affect other land uses, including range improvements, cattle trails and other multiple uses of the land.

Climate Change- Effects on climate change may occur from mining coal which stem from the release of methane through the mine ventilation system, release of methane through any gob vent boreholes and release of CO₂ caused by the burning of coal that is mined.

Scoping Process

In addition to receiving and considering previous comments from the public, the agency continues to accept and consider public comments to guide the development of this environmental impact statement and the resulting decision. Additional comments should clearly articulate the reviewer's concerns and contentions, and focus on the adequacy of

stipulations proposed as they relate to the protection of surface resources. Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however.

/s/Sherry Hazelhurst

Sherry Hazelhurst, Acting Forest Supervisor

April 19, 2012

(Date)

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